IN THE

Supreme Court of the United States

October Term, 1973

No. 73-1539

ART NEON CO., et al.,
Petitioners,

vs.

THE CITY AND COUNTY OF DENVER, et al.

BRIEF IN OPPOSITION TO APPLICATION FOR WRIT OF CERTIORARI

Appellee-Respondents, for the reasons hereinafter set forth, oppose and object to the issuance of a Writ of Certiorari herein.

REASONS FOR DENYING THE WRIT

As is to be expected, the evidentiary background is presented in a manner most favorable to Petitioner. At the present state of proceedings, we are not disposed to burden the Court with a

lengthy demonstration of the actual evidentiary background. For the present, suffice it to say that evidence produced by Respondent municipality established that the challenged ordinance provisions bore a most reasonable relationship to the public health, safety, and welfare, and represented a wholly valid exercise by the municipality of the police power vested in it.

But even assuming the propriety of the evidence as allegedly produced, the considerations governing review on Certiorari indicate that the Writ should not issue. Rule 19.

There is no conflict between Courts of Appeal. Both the Fifth Circuit and the Tenth Circuit are in complete agreement as to the proper disposition of a matter of the type here involved. *E. B. Elliott Adv. Co. vs. Metropolitan Dade County,* 425 F. 2d 1141 (5th Circ.), 1970.

As a matter of fact, in a case involving an identical factual situation as here involved, application for Certiorari was denied. *Markham Advertising Co., et al. vs. The State of Washington, et al.,* (Washington 1968), 439 P. 2d 248; appeal dismissed 89 S. Ct. 553, 393 U.S. 316, 21 L. Ed. 2d 512; rehearing denied 89 S. Ct. 854; 393 U. S. 1112, 21 L. Ed. 2d 813. It is of some considerable interest that the appeal was dismissed for want of a substantial federal question.

THE CONCLUSION

WHEREFORE, for the reasons aforesaid, Appellee-Respondents respectfully submit that the application for Certiorari should be denied.

Respectfully submitted,

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